Supreme Court, U.S.
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NO. (3) 90-1073

IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1990

MARIE M. MCMAHON

Petitioner,

v.

CHARLES S. TRUMP, IV, ET AL

Respondents.

# Petitioner's Reply Brief to Respondent's Reply Against Writ of Certiorari

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PETITIONER'S REPLY BRIEF

Comes now the Petitioner pursuant to Rules 15 (6), 18.8, 29 and 33, and offers the following rebuttal in reply to Respondent's Reply Brief filed herein.

Councel for Respondents has mostly confirmed the facts as pled by Petitioner in her Petition. Petitioner is grateful to Counsel for furnishing Case Numbers below which was inadvertently omitted by Petitioner and to THIS COURT she offers her apology. Counsel did NOT inform THIS COURT that Cases 88-P-13/88-P-14 were tried together (per transcript); that neither Constitutional issue was addressed by the three-judge panel in spite of Petitioner's pleas that they PLEASE do so; she was simply ignored by them re same.

As to the attorney fees allowed, it is the Petitioner's position that to be "duly" elected, one must follow the rules of laws applicable thereto. Due process applicable to all was not forthcoming, per said election. We, the people, could not get our government of-

ficials individually or collectively, to uphold and support the Constitutions and other applicable laws. Duly, per Black's is "In due or proper form and manner, according to legal requirements"..."according to law in both form and substance." (Case law cited omitted).

Those elected soon showed us WHY their illegal acts by giving Developers(Respondents, Kesecker/Seely) water extension lines and eighty (80) taps. That is part of the acts in furtherance of the conspiracies to put the en-eligible-disqualified persons to hold office, in office in the first place.

Additionally, these acts can not be termed "legislative acts"...they were not in the position to legislate at that time, had to get in. They later voted for each other's attorney fees and Gruber even signed the checks and why not, she had no worry, if taken to court it had been demonstrated to her the courts would uphold her illegal ways to include violation of the Constitutions all had sworn to support. It is still the same...i.e.,no place to go to have

the Constitutions upheld and supported, locally (some believe in the state) and WHY we are APPEALING TO THIS COURT. Petitioners did have same demonstrated to them in this case; it did go before the West Virginia Court of Appeals, who failed to take action. It is the position of Petitioners that should THIS COURT fail to act in a very strong decisive manner that not only is the State of West Virginia, but many states in great trouble judicially because of "cronysim" and what it entails, which seems to be the destruction of the United States Constitution, State Constitutions and other good laws made for the benefit of all. The President of the United States has spoken out on television about the fact that judges should administer the laws as written and not make up their own, or words to that effect. OATHS OF OFFICE MUST BE TAKEN SERIOUSLY!

Petitioner can find no law that allows for such acts by Respondents; the courts lose jurisdiction of the matter before them when they violate fundamental rights of litigants

and it has so been stated by THIS COURT. It is not something Petitioner dreamed up; it is for the benefit of all, equally, and Petitioners feel IT MUST BE REITERATED IN STRONG LANGUAGE WHICH LEAVES NO ROOM FOR DOUBT BY THOSE WHO WOULD CONTINUE SUCH ABUSES, AS HEREIN! Such laws are not Petitioner's opinions...they are those of the COURTS, SUPREME AND APPELLATE.

At page 6, Counsel forgot to state that the prayer for relief also seeks to have the attorney fees cited, returned, i.e., $3463.93. He also forgot two million dollars compensatory damages. It is very low, but how does one PRICE The United States Constitution?

> Compensation is a misleading term and is used merely for lack of a word more nearly expressing the thought of the law which permits recovery of imponderable and intangible thing for which there is no money equivalent. Stutsman v. Des Moines City Ry., Co., 180 Iowa 524, 163 N.W. 580, 585.

Compensation, per se, is described as"Indemnification; payment of damages; making amends;...remuneration for the injury directly and proximately caused by breach of contract or duty. (Black's 4th Ed.,page 354,)The breach

of the duty-owed responsibility intentionally and deliberately, to grant the rights, under color, causing injury make Respondents liable.

Re Counsel's Discussion: Page 7. We are sure it is difficult "to know what exactly to answer". Petitioner is well aware of the fact there are no answers that can defend such acts by Respondents! None that are legal!

As to "Conclusory and opinionated statements" by her, she stated the facts, researched the laws and quoted same applicable to the facts...it is completely related and as to the decisions of previous courts entertaining her complaints....she does KNOW when the courts do not **rule per** Constitutions, refuse to rule at all and are arbitrary and certainly does not approve of such acts. She has consistently held that the <u>due process</u> due was not forthcoming; pled in lower courts denial of "equal protection" to provide personal gain to the Respondents; that laws apply to all equally, supposedly, but not herein, as pled.

Of course the acts were under color of state laws in state courts; could only be done

clothed with state authority. Counsel, himself pled the three-judge panel and circuit court. THEY ARE STATE ACTORS. Others were willing participants therewith said state actors in the violations of Constitutions and other statutes, making all actors under color of state law, at state level. Then we come to district court who went along with the arguments and DENIED FIRST AMENDMENT RIGHT to access to court to redress grievances and snowballed at the 4th Circuit of Appeals who affirmed the district court.

As to standing and injury. Of course injury is pled, economic and otherwise. Severe emotional and mental anguish were pled and taxpayers should not have to pay their government to violate their Constitutional rights; beg for equal treatment for equal facts as pled herein nor the right to vote and have their vote count equally for them...candidates should at least meet the same requirements as voters. People not eligible to hold office should not be able to spend taxpayer money to gain personally for such illegal acts; nor should those already in office aid and abet by violating their oaths

of office in order to so act. Such spending is economic injury to taxpayers, of which this Petitioner is one such taxpayer. The public welfare is at stake.

Anyone should be able to fight for the United States Constitution...they are called to do so...to protect democracy. Petitioner and others think The United States Constitution the greatest document ever written...she gets very emotional concerning such abuses...she was in shock for days when the three-judge panel failed to rule according to same and many saw her tears concerning such abuse. She is not the only one; such Constitutional Torts shocks the conscience of ordinary man. Such acts are exactly the opposite of what our judicial system is supposed to be all about. 42 U.S.C., § 1983 was written for provision of recourse for such arbitrary acts done with intention and willfully (lack of substantive due process) cited here in. THIS COURT has so stated in laws cited herein; these are not Petitioner's opinion, read for yourself, Counsel.

As to libility of state officials, page 9,

1st sentence...again, it is not that Petitioner vehemently disagrees, as stated above, so do the applicable laws to the facts by Appellate Courts and THIS COURT.

Further, a court can not legally change what has been written (statutes) by simply ignoring same or violating, which adds to the problem and can not be allowed to stand. Courts should administer according to statutes. Prosecuting attorneys do not have discretion when the word SHALL is written into statutes. Shall is not discretion...it is COMMAND. The United States Constitution says in the Supremacy Clause that the judges in every state SHALL be bound thereby. No discretion is allowed for one class of persons as opposed to another, i.e., federal employees vs. state employees or any other government; laws apply to all, per Constitutions...no discrimination. When judges act unconstitutionally, they lose jurisdiction and are subjected to the consequences of their illegal acts...not immune...to act unconstitutionally can NOT be considered a judicial act. No judge can act until taking the oath to sup-

port the Constitutions. They only have authority within the bounds of the laws. Surely Counsel should know this.

Additionally, legislative people have no right to violate statutes, either, which Respondents herein certainly did. Petitioner not only alleged actionable claims, she cited the statute violated to the lower courts.

(The Respondents seem to be mad that a non-lawyer has caught such illegal acts, pled same and supports her position with applicable laws. There appears to be invidious discrimination against her; there must be at least 20 to 30 lawyers giving aid to try to defeat her, however, she feels the Constitutions are worth fighting for. She does resent the misleading statements and lack of complete truth.)

Re conspiracy, page 10. Petitioner has in the past, and herein, supported conspiracy with the acts of Respondents citing specific facts. She agrees "Conspiracies only exist when two or more persons combine to accomplish a crime or some unlawful purpose". That is exactly what happened. Two and more combined to violate

the Constitutional provisions provided for all (that is crime) and the way it was done was "unlawful purpose", illegal means used to make personal profit. The water contract was NOT deemed in the town's best interest...it WAS DEEMED IN THE DEVELOPER/LAWYER/bank/council-person best interest. The Town had to pump water and pay extra equipment/labor as a result...pictures at lower court show such pumping.

Re Conclusion: Maybe Respondents call it harassment to be told by pleadings in court papers of their illegal ways and claim to have answered factually and responsibly. Petitioner disagrees. Truth is, they have not answered factually always and it is the Petitioners who have been abused and harassed because they try to have the laws enforced, upheld and supported by those who had the duty-owed responsibility to do just that for the welfare of the public, however, their "Clique cronies" means more to them. Most Americans feels that our Constitutions should be upheld; all who care about what same provides and realize, cherish

and value the worth of same; those who do not wish to see that great instrument destroyed and in effect, of no use to certain ones.

As to every court "Given a fair and objective ear" quoting Respondents Counsel, it is Petitioner's position they have gone all out to take care of "cronies", at the expense and abuse of Constitutional Rights due all litigants per same Constitutions. SUCH ACTS MUST STOP!

CONCLUSION

For those reasons pled in the Petition and herein, the Writ prayed for should issue and Petitioner prays that THIS COURT will use their superior knowledge, please take judicial notice of all that is involved to reverse such acts as complained of herein.

Respectfully submitted,

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